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 MARKEL INSURANCE COMPANY

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

CITI APARTMENTS, INC.; PRIME
 APARTMENT PROPERTIES, LLC; PRIME
 PROPERTIES I, LLC; RMSV BAY CITI
 PROPERTIES I DE, LLC; RMSV BAY CITI
 PROPERTIES I, LLC; 124 MASON, DE,
 LLC; TROPHY PROPERTIES, VI, LLC;
 LRL CITI PROPERTIES I DE, LLC;
 FRANK LEMBI; WALTER LEMBI;
 ANDREW J. HAWKINS,

Plaintiffs,

v.

MARKEL INSURANCE COMPANY; and
 DOES 1 through 100, inclusive,

Defendants.

CITI APARTMENTS, INC., et al.

Plaintiffs,

v.

MARKEL INSURANCE COMPANY; and
 DOES 1 through 100 inclusive,

Defendants.

Nos. C 06 05752 CW
 C 06-7086

**PARTIES' STIPULATION TO
 CONTINUE THE 9/27/07 COMBINED
 MOTION HEARING AND CMC, AND
 ALL RELATED DATES; ORDER**

Date: September 27, 2007
 Time: 2:00 p.m.
 Dept.: Courtroom 2, 4th floor
 Judge: Hon. Claudia Wilken

Complaint Filed: August 21, 2006

Pursuant to Local Rule 6-2, Defendant MARKEL INSURANCE COMPANY (“Markel”) and Plaintiffs CITI APARTMENTS, INC.; PRIME APARTMENT PROPERTIES, LLC; PRIME PROPERTIES I, LLC; RMSV BAY CITI PROPERTIES I DE, LLC; RMSV BAY CITI PROPERTIES I, LLC; 124 MASON, DE, LLC; TROPHY PROPERTIES, VI, LLC; LRL CITI PROPERTIES I DE, LLC, et al.; and FRANK LEMBI; WALTER LEMBI; ANDREW J. HAWKINS (“Plaintiffs”), by and through their respective attorneys of record hereby request and stipulate to a continuance of the combined Case Management Conference/hearing on motion to dismiss the first amended complaint that is currently set for September 27, 2007, by two weeks, to October 11, 2007, and that all related dates be changed accordingly as set forth below in order to give the parties much-needed time to finalize the written settlement agreement based upon the “deal points” reached at mediation. Markel is represented by Susan E. Firtch of Burnham | Brown. Plaintiffs are represented by Guy O. Kornblum of Kornblum & Associates. The request and stipulation are based on the following grounds.

1. In its June 11, 2007 order granting Markel’s motion for summary judgment and Plaintiffs’ motion for leave to file a first amended complaint to bring new claims, the Court set the hearing date for any motion to dismiss that Markel might file, and a Case Management Conference (“CMC”), for August 23, 2007 at 2:00 p.m.

2. Plaintiffs filed their first amended complaint, and Markel filed a motion to dismiss pursuant to FRCP 12(b)(1) and (12)(b)(6). At that time, Plaintiffs’ opposition was due August 2, Markel’s opposition was due August 9, a joint CMC statement was due August 16, and the motion hearing/CMC was set for August 23, 2007.

3. However, On July 26, 2007 the parties participated in mediation with Judge Rebecca Westerfield (ret.) pursuant to the ADR mediation program. The parties were able to reach an agreement in principle, entitled “deal points,” which they are in the process of finalizing into a written agreement. At that time the parties stipulated to, and obtained, an order continuing the combined CMC/motion hearing date to September 27, 2007, and continuing the related dates accordingly. One of the bases for the extension of time was that Plaintiffs’ corporate counsel would be unavailable from approximately July 27 through August 3 for

1 medical reasons. Unfortunately, he has not been able to return as quickly as anticipated.

2 4. The parties have been working on the settlement agreement, but need additional
 3 time to complete it prior to the due date for Plaintiffs' opposition to Markel's motion. In order
 4 to give the parties time to finalize/execute their settlement agreement, yet keep Markel's motion
 5 to dismiss on calendar in the event the settlement somehow falls through (which is not
 6 anticipated), the parties have agreed to extend all of the currently scheduled dates by two more
 7 weeks (keeping the CMC/hearing date on a Thursday per the Court's schedule). If the Parties do
 8 consummate their settlement, the motion to dismiss will be taken off calendar, but the CMC will
 9 still be necessary to work out the entry of judgment on Markel's prior summary judgment
 10 motion, which is part of the planned settlement.

11 THEREFORE, PLAINTIFFS AND MARKEL STIPULATE AND AGREE TO THE
 12 FOLLOWING SCHEDULE:

13	Filing of Plaintiffs' opposition by	September 20, 2007;
14	Filing of Markel's reply by	September 27, 2007;
15	Filing of Joint CMC Statement by	October 4, 2007;
16	Hearing on Motion/CMC by	October 11, 2007.

17 Based on the foregoing, the parties respectfully request that this Court enter an Order
 18 granting the continuance to the dates set forth above.

19 DATED: 9/6/07

20 /s/ Susan E. Firtch
 21 SUSAN E. FIRTCH
 22 BURNHAM BROWN
 23 Attorneys for Defendant
 24 MARKEL INSURANCE COMPANY

25 DATED: 9/5/07

26 /s/ Guy O. Kornblum
 27 Guy O. Kornblum
 28 Kornblum & Associates
 Attorneys for Plaintiffs

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PURSUANT TO THE PARTIES' STIPULATION, IT IS HEREBY ORDERED THAT:

If the case has not settled and Markel's motion to dismiss remains on calendar, Plaintiffs' Opposition to Markel's motion shall be filed on or before September 20, 2007; Markel's reply shall be filed on or before September 27, 2007; regardless of whether or not the motion remains on calendar, the Parties' Joint CMC Statement shall be filed on or before September October 4, 2007; the hearing date for the motion to dismiss (if it proceeds) and the CMC is continued to Thursday October 11, 2007 at 2:00 p.m.

DATED: 9/12/07



Hon. Claudia Wilken

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